



## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

**RTID 0648-XC042**

#### **Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Lighthouse Repair and Tour Operations at Northwest Seal Rock, California**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; issuance of Letter of Authorization (LOA).

**SUMMARY:** Pursuant to the Marine Mammal Protection Act (MMPA), as amended, and implementing regulations, NMFS issued an LOA to the St. George Reef Lighthouse Preservation Society (Society) to take marine mammals incidental to conducting aircraft operations, lighthouse renovation, light maintenance activities, and tour operations on the St. George Reef Lighthouse Station (Station) on Northwest Seal Rock (NWSR).

**DATES:** This authorization is effective from May 15, 2022 through May 14, 2023.

**FOR FURTHER INFORMATION CONTACT:** Amy Fowler, Office of Protected Resources, NMFS, (301) 427-8401.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if

the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An incidental take authorization shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined “negligible impact” in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term “take” means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines “harassment” as: any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

## **Summary**

NMFS issued regulations governing the take of California sea lions (*Zalophus californianus*), harbor seals (*Phoca vitulina*), Steller sea lions (*Eumetopias jubatus*), and northern fur seals (*Callorhinus ursinus*), by Level B harassment only, incidental to lighthouse maintenance and preservation activities at NWSR, offshore of Crescent City, CA on April 15, 2022 (87 FR 22484). These regulations include mitigation, monitoring, and reporting requirements for the incidental take of marine mammals during the

specified activities. As further detailed in the regulations (50 CFR 217.57), adaptive management measures allow NMFS to modify or renew LOAs as necessary if doing so creates a reasonable likelihood of more effective mitigation and monitoring.

This LOA for the first year of the Society's activities is valid from May 15, 2022 through May 14, 2023. The LOA includes the requirement for quarterly monitoring report submissions to ensure that implementation and compliance will be successful. NMFS will reevaluate the Society's implementation and compliance in accordance with the terms of the regulations and the one-year LOA before issuing any additional LOAs to the Society.

#### **Authorization**

NMFS has issued an LOA (available at <https://www.fisheries.noaa.gov/action/incidental-take-authorization-lighthouse-repair-and-tour-operations-northwest-seal-rock>) to the Society for the potential harassment of small numbers of four marine mammal species incidental to conducting aircraft operations, lighthouse renovation, light maintenance activities, and tour operations at NWSR, provided the mitigation, monitoring and reporting requirements of the rulemaking are incorporated.

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